



Speech by

DESLEY BOYLE

MEMBER FOR CAIRNS

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SUBCONTRACTORS' CHARGES AMENDMENT BILL

Ms BOYLE (Cairns—ALP) (5.24 p.m.): I am pleased to join other honourable members of the House in supporting the Subcontractors' Charges Amendment Bill. I must say that I do not feel so sure-footed in speaking to this bill as the building industry is clearly a blokey kind of industry. There are members in the House, the minister among them, who come from the industry and who have had direct experience of it. I am not one of those.

I saw a pattern of women's employment over recent years earlier today. I must say that, despite the freedom that women now have to choose a career and the openness of professions and careers that were formerly blokes' professions and the choices of careers and jobs available, women have not moved into the building industry—or the mining industry, for that matter—in great numbers. The trainees and apprentices in the building industry are still far and away mainly male. I was given to wonder whether, if more women were in the industry, the problems might have been sorted out sooner.

Mr Schwarten: Just as a matter of interest, in your electorate of Cairns, Project Services has the highest number of women working in project management in Queensland.

Ms BOYLE: That is interesting. I must admit that I did not realise that. The Office of Project Services in Cairns has been working very well, and I had not realised why.

Even if the building industry is full of males pursuing careers, nonetheless they are members of families. So when subcontractors go under, we do not worry just about them; we also worry about their families—their wives and their kids. I am sorry to say that too often in Cairns have I seen the impacts of subcontractors who have not been paid and will never get paid owing to the demise of a building company.

Certainly, I express my sympathy for those in the industry who have been burned in the past. This problem goes well back in history. However, I must say that it is not always the building company's fault. Although some builders are unscrupulous, withhold payment for no good reason and do not have proper financial stability, some other builders are not paid by the developers, the project leaders, the financiers of the original project. They, too, become part of the domino effect of the collapse.

My particular concern, as we look at the actions that this government might take to ensure security of payment in the building industry, is that we look at the very top of the chain, particularly at the way in which the developers and their financiers finance the projects and commit to them in the first place. Unfortunately, I have to say that in Cairns over recent years too many down the chain have experienced the pain of non-payment and the pain of company collapses. For some of them, it has been beyond their financial ability to cope and they have had to leave the industry—some of them in dreadful financial debt. Of course, it is the government's role to do all that we can to improve security of payment. We are doing that in a sensible, steady and progressive way and in consultation with the industry.

However, it is not an entirely simple matter for the government. Although it is a popular and easy suggestion by the building industry that governments should fix the problems, there is a cultural or hidden problem within the industry that is not so frequently spoken about, and that is the reluctance of subcontractors to speak up about the money that is owed to them and to speak up soon, and to develop business practices that are hard and sharp and require contracts and signatures to variations. The reason that subcontractors do not act in such a firm and clear way in managing their own businesses is the fear that, if they speak up, the builders will never give them another job. Therefore,

the subcontractors swallow the bad treatment that they receive from builders and expect others—sometimes the government—to solve the problems for them. Nonetheless, through this bill and our other actions, we are doing all that we can.

I note that at the start of this year state cabinet minutes from the Bjelke-Petersen era were released under the 30-year embargo rule. It is interesting to note that the minutes showed that at that time the cabinet had discussed the establishment of the old Builders Registration Board. That board was a forerunner to the current Building Services Authority. So even 30 years ago governments saw the need to regulate those involved in the building industry in an effort to set standards and minimise disputes, including those relating to non-payment.

It is debatable how much success bodies such as the Builders Registration Board have had, but there is no doubt about the need for a regulatory body. Governments of all colours recognise that basic fact. The other basic fact which should be recognised and accepted is that there will continue to be building companies which suffer financial collapse, whether it be through circumstances beyond their control or through incompetence or through dishonesty.

I do not believe anybody can or will come up with a system to guarantee payment to subbies in every such case. The minister has said many times that whoever invents such a system will be richer than Bill Gates. They will be able to patent it and franchise it to all other sectors of industry. However, what we can do and what we have to do is minimise problems as much as is humanly possible. We cannot wave a magic wand and make all such problems disappear.

This government has already implemented the Better Building Industry reforms, which were passed unanimously by this House in late 1999. The amendments before us today make further reforms to improve security of payment, but the job does not stop here. Further possible changes have already been foreshadowed. Earlier this year the Building Services Authority released a discussion paper detailing proposals to further increase security of payment within the construction industry. The paper has been circulated to stakeholders in a bid to generate discussion on the issue.

It includes a possible legislative model based on systems already in place in New South Wales, as well as similar legislation proposed for Victoria, Western Australia and New Zealand, where there is a strong trend to reform the law relating to construction contracts. The BSA board has submitted the proposed model to the minister and he is keen to hear the industry's views next. As the minister has said, there is no point in bringing in changes unless there has been consultation resulting in broad industry support.

The BSA proposal is based on three key considerations: the facilitation of timely payments between the parties to a construction contract, rapid and cost-effective resolution of payment disputes arising under a construction contract, and mechanisms within legislative frameworks for the rapid recovery of payments. The discussion paper will not represent a government position on security of payment—not at all—until it hears what the industry has to say, not just the industry in Brisbane but the industry in Cairns and right around the state of Queensland.

This discussion paper constitutes the next step in the evolution of the 1999 Better Building Industry reforms. Hopefully it will provide the feedback and information needed to guide future policy decisions. The broad aim of the proposed model is to ensure that anyone who carries out construction work or provides related goods or services is entitled to receive and is able to recover progress payments. The Better Building Industry reforms have been in place now for two years. It is time to examine their effectiveness and consider the need for further changes.

Because of that, people involved in the building industry in far-north Queensland have a chance to put forward their views on methods to improve security of payment. The BSA has arranged a forum in Cairns next Monday night to gain industry feedback. The Cairns event is part of a series of regional forums being held in February and March around the state. I am pleased that the *Cairns Post* has promoted the event through two articles in the 'News' pages today about next week's forums and the opportunity for industry players to come and speak up about their experiences and to give their best solutions. Ian Jennings, the General Manager of the BSA, stated—

Now it's time for all those who have been burned by non-payment and all those who don't want to be burned in the future to come and speak out, share their views and give constructive feedback on our proposal.

I am pleased to inform members that the vice-president of the National Subcontractors Association of Queensland, Ron Crew, a resident of the Cairns area, agrees. He is quoted as encouraging industry players to attend—

It's up to us that we will get the kind of legislation we need to protect us from rogue operators who won't pay, short pay, delay payments or apply unreasonable back payments.

At the moment there are some builders and developers that have turned withholding payment into an art form.

He urges those involved in the industry to attend.

I would like to give recognition to a plumber, Daryl Taylor, for publicly speaking out. He is also mentioned in the *Cairns Post* article and encourages those in the industry to be honest about their

experiences and to come forward with their suggestions. I would like to recognise his efforts, particularly because I know there are other subcontractors in Cairns who are too frightened to do so. I understand their fear. It is a small industry and, when there are a limited number of projects in the offing, it takes gumption to come out publicly for fear that the bigger builders in town will note the names of subcontractors who dare to, as it were, spill the beans about their unsavoury practices. The risk to subcontractors, from their perception at least, is that they may get no more jobs from those builders. However, if instead all in the industry come forward and join me, Mr Crew and the BSA on the stage next Monday night, there should be no such repercussions.

We will never achieve a perfect system, yet we move a step closer today with the Subcontractors' Charges Amendment Bill. I am pleased to say—and I hope I represent his views correctly—that Ron Crew agrees there is much about this bill that is a fine, important and positive step forward. He has raised a couple of questions with me and I will pass them on to the minister for his consideration. They probably are matters that require some clarification.

Mr Schwarten: They're matters the shadow minister raised.

Ms BOYLE: That is good to hear. One matter is the intention to reduce the time period to one month. He recognises that it is well intentioned, but he questions its workability. He questions the definition of paying an amount and whether the paying of a small amount would set the superior contractor free from the remaining part of the bill. He is concerned that the minister further explain the leapfrogging provisions to ensure they will not end up costing subbies too much money in further litigation.

While there might be doubts in the minds of some, nonetheless, all members of this House recognise that this bill is a further step forward in protecting the building industry in the fair state of Queensland.
